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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,751	03/19/2004	Robert P. Benjey	03-ASD-124 (GT)	7674

200 7590 07/07/2004

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EXAMINER

DOUGLAS, STEVEN O

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/804,751

Applicant(s)

BENJEY, ROBERT P. 

Examiner

Steven O. Douglas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,11,14-23,26 and 27 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☒ Claim(s) 10,12,13,24 and 25 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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### DETAILED ACTION

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Specie I.: Figs 1-3; and

Specie II.: Figs. 4-6.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Specie I.: claims 11,23,26 and 27

Specie II.: claims 10,12,13,24 and 25

The following claim(s) are generic: Claims 1-9 and 14-22.

During a telephone conversation with Mr. Roger Johnston on 7-1-04 a provisional election was made with traverse to prosecute the invention of Specie I., claims 1-9,11,14-23,26

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and 27. Affirmation of this election must be made by applicant in replying to this Office action.

Claims 10,12,13,24 and 25 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7,9 and 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palvoelgyi et al. in view of Kunz et al.

The Palvoelgyi et al. reference discloses a sealing arrangement for a fuel tank filler tube comprising a door 3 with associated seal arrangement 6 formed on the associated rim and biased by spring loaded rack 9 and dampened by rotary dampening device 11, but does not disclose the sealing arrangement as being arranged for wiping contact with the rim. The Kunz et al. reference discloses another sealing arrangement for fuel tank filler tubes having a seal arranged for wiping contact with a rim and disposed in an annular groove on the associated door. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a sealing arrangement as, for example, shown by Kunz et al. for the sealing arrangement of Palvoelgyi et al., wherein so doing would amount to the mere substitution of one type (i.e. door-mounted) of sealing arrangement for another (i.e. rim mounted) that would work equally well in the Palvoelgyi et al. device.

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In regard to the method of forming (i.e. stamping) the door, the act of stamping is not germane to the issue of patentability of the device itself. Therefore, this limitation is not given patentable weight.

Claims 1-7 and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. in view of Kunz et al.

The Harris et al. reference discloses a sealing arrangement for a fuel tank filler tube comprising a door 76 with associated seal arrangement 28 formed on the associated rim and biased by spring 26, but does not disclose the sealing arrangement as being arranged for wiping contact with the rim. The Kunz et al. reference discloses another sealing arrangement for fuel tank filler tubes having a seal arranged for wiping contact with a rim and disposed in an annular groove on the associated door. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a sealing arrangement as, for example, shown by Kunz et al. for the sealing arrangement of Harris et al., wherein so doing would amount to the mere substitution of one type (i.e. door-mounted) of sealing arrangement for another (i.e. rim mounted) that would work equally well in the Harris et al. device.

In regard to the method of forming (i.e. stamping) the door, the act of stamping is not germane to the issue of patentability of the device itself. Therefore, this limitation is not given patentable weight.

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Claims 11,23,26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palvoelgyi et al. in view of Kunz et al. as applied to claims 9 and 22 above, and further in view of Bivens.

The Palvoelgyi et al. reference discloses a sealing arrangement (supra) including rotary dampening device 11, but does not a dampening device including a pneumatic piston and tube arrangement. The Bivens reference discloses another damper being a pneumatic operated tube and piston arrangement. . It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a dampening arrangement as, for example, shown by Bivens for the sealing arrangement of Palvoelgyi et al., wherein so doing would amount to the mere substitution of one type (i.e. piston-type) of dampening arrangement for another (i.e. rotary-type) that would work equally well in the Palvoelgyi et al. device.

### ***Conclusion***

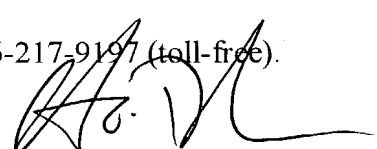
Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is 703-308-0891. The examiner can normally be reached on Wed-Fri 6:30-7:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven O. Douglas  
Primary Examiner  
Art Unit 3751

SD  
7-1-04